

ENTERED

November 01, 2016


David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**VANESSA MICHELLE MOLINA,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.§
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§Civil Action No. 1:16-cv-242
(Criminal No. 1:14-cr-643-1)**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the Magistrate Judge's Report and Recommendation in the above-referenced cause of action. No objections have been filed. After a de novo review of the file, the "Magistrate Judge's Report and Recommendation" (Docket No. 5) is **ADOPTED**. It is therefore **ORDERED, ADJUDGED, and DECREED** that to the extent Molina seeks relief under 28 U.S.C. § 2255, her "Motion Pursuant to 28 U.S.C. § 2255 to Vacate Set Aside Sentence in light of Retroactive Effect of the Clarifying Amendment (794)" (Docket No. 1) is **DISMISSED** for failure to state a cognizable claim. Moreover, to the extent Molina seeks a reduction of her sentence based on a retroactive application of United States Sentencing Guideline Amendment 794, her motion (Docket No. 1) is construed as seeking relief pursuant to 18 U.S.C. 3582(c)(2), and **DENIED** because Amendment 794 has not been given retroactive effect under United States Sentencing Guideline § 1B1.10. A certificate of appealability shall not issue.

Signed on this 15th day of November, 2016

 Rolando Olvera
 United States District Judge